

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Trung T. Doan

Serial No.: 09/652,713

Filed: August 31, 2000

For: CHEMICAL DISPENSING SYSTEM FOR
SEMICONDUCTOR WAFER PROCESSING

§
§ Group Art Unit: 1763
§
§ Examiner: Sylvia MacArthur
§
§ Atty. Docket: 93-0421.04
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§

SHOWING OF FACTS AND RESPONSE TO THE
BOARD DECISION DATED JULY 29, 2003

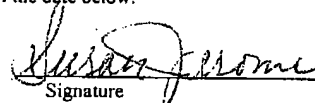
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9/26/03

Date


Signature

Dear Sir:

Pursuant to 37 C.F.R. 1.196(b), Applicant herein presents facts not previously of record and respond to the Board's decision dated July 29, 2003.

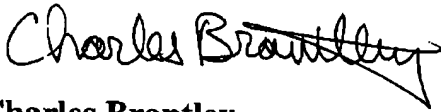
I. Showing of facts

Applicant acknowledges that the showing of facts "may" include affidavits or declarations. (MPEP §1214.01.) However, in the interest of efficient prosecution, Applicant contends that the

The last three lines on page one should be as follows.

facts below are more than sufficient for the Examiner's determination that the claims satisfy the definiteness requirements of §112, ¶2.

A. MERRIAM WEBSTER'S COLLEGIATE DICTIONARY (10th ed.) defines "configure" as
to set up for operation esp. in a particular way



Charles Brantley
Attorney for Applicant
Reg. No 38,086

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DATE: October 23, 2003

PAGES: 20 including cover

8000 South Federal Way
Boise, ID 83716
(208) 368-4557

TO:

NAME: Examiner MacArthur

PHONE: (703) 306-5690

ADDRESS: U.S. Patent and Trademark Office

FAX: (703) 872-9630

FROM:

NAME: Charles Brantley
DEPT: Patent Department

PHONE: (208) 368-4557
FAX: (208) 368-5606

MESSAGE:

RE: Application Ser. No. 09/652,713

Per your phone call this morning, I am faxing a courtesy copy of the Showing of Facts and Response to the Board Decision dated July 29, 2003 that I mailed on 9/26/03. I note that my copy has truncated the last three lines of the first page. I'm not sure if the original I sent you has that problem, but in case it does, I have included the relevant text below. Also, in the interest of keeping the fax short, I have omitted the patents originally included in the appendices. Please let me know if you want a copy of any of those patents.

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(*Id.* at p. 242. A copy of the relevant page of MERRIAM WEBSTER is included in an appendix to this Response.)

B. The AMERICAN HERITAGE ELECTRONIC DICTIONARY (1992) defines "configure" as

[t]o design, arrange, set up, or shape

(A printout of the relevant definition from the ELECTRONIC DICTIONARY is included in an appendix to this Response.)

C. The patents listed below state as follows.

1. U.S. Pat. No. 6,311,365 by Dornier states

[w]hen, as is particularly preferred, the steam cleaning head has a delta shape with slightly rounded sides, steam pressure chambers are again arranged side by side along the edge portion and are followed radially on the inside by a suction region. This suction region is defined by a circular annular arrangement of further steam pressure chambers in the interior of which a suction region is again found.

(Dornier at col. 2, ln. 31-37.)

2. European Pat. No. 1238766 by Caspar states

[i]t should be understood that the amount of suction applied to the suction apertures depends on the shape and size of the apertures which preferably are round.

(Caspar at ¶[0013].)

3. U.S. Pat. No. 6,341,387 by Zars states

[a]n additional object of the present invention is that it may be installed as a "kit" on virtually any pool, whether new or existing.

The invention is intended to be self-contained and made of materials familiar in the art, preferably polyvinyl chloride (PVC) piping. The (sic) exact limiting quantity of suction is determined by the internal dimensions and arrangement of the piping and sump.

(Zars at col. 2, ln. 41-47.)

4. U.S. Pat. No. 4,938,239 by Theurer states

[t]his advantageous combination of the compressed air discharging nozzle and the suction inlet port results in a reinforced suction air flow because the path of this flow is exactly determined by the arrangement of the nozzle within the inlet port so that all the dirt is subjected to the downward pressure of the compressed air as well as the upward suction, which will cause a strong turbulence and detach even strongly adhering dirt particles from the ballast.

(Theurer at col. 3, ln. 30-38.)

5. U.S. Pat. No. 4,522,575 by Tischer states

the discharge pressure and suction pressure are easily determined design parameters . . .

(Tischer at col. 6, ln. 14-16.)

6. U.S. Pat. No. 3,939,065 by Einersson states

[t]he strength of the pressure and suction waves depends, besides by the design of the pulsation organs, mainly on the peripheral velocity of the drum relative to the peripheral velocity of the suspension in the liquid layers in question.

(Einersson at col. 2, ln. 41-45.)

(Copies of these patents are included in appendices to this Response.)

II. Argument

Claims 36-37 are pending.

Claims 36-37 are appealed.

Claims 36-37 are rejected by the Board based on a new ground – §112, ¶2.

Applicant requests the Examiner consider the definiteness of the pending claims.

The Board's decision dated July 29, 2003 reversed the Examiner's §102 rejection and raised a §112, ¶2 indefiniteness rejection. In doing so, the Board focused on independent claim 36's limitations concerning a splash controller that is (1) configured to draw a chemical toward itself; and (2) configured to generate a gas pressure. The Board specifically argued that *suction* applied *through* the splash controller, rather than the *configuration* of the splash controller, is what draws the chemical and generates the gas pressure. (Appeal Decision at p. 4-5.) Significantly, in support for this argument, the Board interpreted the term "configured" to mean "shaped." (*Id.* at p. 4.) As authority for this interpretation, the Board cited page 242 of MERRIAM WEBSTER'S COLLEGIATE DICTIONARY (10th ed.). (Appeal Decision at p. 4, footnote 1.) However, as cited above in part IA, that reference appears to offer a different definition. Specifically, the definition of the root word "configure" indicates that "configured" means "set up for operation." Moreover, the alternate source cited above in part IB indicates that the term "configured" is broad enough to encompass MERRIAM WEBSTER'S actual definition, the Board's stated definition, and more. Namely, the ELECTRONIC DICTIONARY's definition of the root word indicates that "configured" broadly means "designed, arranged, set up, or shaped."

Moreover, one of ordinary skill in the art would be aware that suction is a function of the design, arrangement, set up, or shape (i.e. configuration) of a relevant device, as demonstrated by the patents cited above in part IC. For example, U.S. Pat. No. 6,311,365 by Dornier teaches that a "suction region" is defined by an "arrangement" of pressure chambers. (Dornier at col. 2, ln. 35-36.) European Pat. No. 1238766 by Caspar indicates that "the amount of suction applied" depends on the "shape" of a device's apertures. (Caspar at ¶[0013].) U.S. Pat. No. 6,341,387 by Zars discloses that a "quantity of suction" is determined by the internal dimensions and "arrangement" of piping. (Zars at col. 2, ln. 45-47.) U.S. Pat. No. 4,938,239 by Theurer instructs one of ordinary skill in the art that the path of a "suction air flow" is determined by an

"arrangement" of a nozzle with an inlet port. (Theurer at col. 3, ln. 32-34.) U.S. Pat. No. 4,522,575 by Tischer discloses that "suction pressure" is a "design" parameter. (Tischer at col. 6, ln. 14-16.) U.S. Pat. No. 3,939,065 by Einersson indicates that the strength and press of "suction waves" depends in part upon the "design" of pulsation devices. (Einersson at col. 2, ln. 41-43.) Applicant contends that such knowledge is deemed to be imparted to one of ordinary skill in the art when considering the Specification's support for the definiteness of the terms at issue.

Further, the Specification in fact provides non-limiting support for designs/arrangements/set ups/shapes of splash controllers. Applicant cited the relevant portions in the Appeal Brief when summarizing the invention. (Appeal Brief at p. 2.) To reiterate, Applicant cited p. 3, ln. 18-19; p. 4, ln. 5-6; and FIGS. 1&2 (addressing vacuum port 18) for the general disclosure of a splash controller. For the specific limitation of a splash controller configured to draw the chemical toward itself, Applicant cited p. 4, ln. 3-5, 16-18 (addressing how the design/arrangement/set up/shape of vacuum port 18 allows application of suction to a particular area). For the specific limitation of a splash controller configured to generate the relevant gas pressure, Applicant cited p. 3, ln. 3-7, 16-18; and FIGS. 1&2. Applicant alerts the Examiner that p. 4, ln. 3-7, 16-18 are relevant to this limitation as well.

In addition, it is significant that the Board has acknowledged that suction draws the relevant chemical and generates the relevant gas pressure (and that the Specification discloses so). (See Appeal Decision at p. 5-6.)

Hence, because the Specification discloses a splash controller configured (i.e. designed, arranged, set up, or shaped) for suction; and suction draws the relevant chemical and generates the relevant gas pressure; then the Specification necessarily discloses a splash controller configured to draw the relevant chemical and generate the relevant gas pressure.

(Moreover, for reasons addressed in Appeal Brief, Hurtig cannot be interpreted as disclosing a component whose design, arrangement, set up, and/or shape meets claim 36's relevant configuration requirements. See Appeal Brief at p. 3-4.)

As a result, Applicant contends the claims meet §112's definiteness requirement and requests the Examiner's allowance of all of the pending claims. If there are any matters which

may be resolved or clarified through a telephone interview, the Examiner is requested to contact Applicant's undersigned attorney at the number indicated.

Respectfully submitted,

Charles B. Brantley II

Date: 9/26/03

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ATTORNEY FOR APPLICANT

Appendix 1: Definition of "configure" from MERRIAM WEBSTER'S COLLEGIATE DICTIONARY
(10th ed.)



Merriam-Webster's Collegiate[®] Dictionary

TENTH EDITION

Merriam-Webster, Incorporated
Springfield, Massachusetts, U.S.A.

Appendix 2: Definition from AMERICAN HERITAGE ELECTRONIC DICTIONARY (1992)

con·fig·ure (kən-fīg'yər) *tr.v.* **con·fig·ured, con·fig·ur·ing, con·fig·ures.** To design, arrange, set up, or shape with a view to specific applications or uses: *an internal security vehicle that was configured for rough terrain.* [Middle English *configuren*, from Old French *configure*, from Latin *cōnfigūrāre* : *com-*, *com-* + *figūrāre*, to form (from *figūra*, shape; see **dheigh-** below).]

Appendix 3: U.S. Pat. No. 6,311,365 by Dornier

Appendix 4: European Pat. No. 1238766 by Caspar

Appendix 5: U.S. Pat. No. 6,341,387 by Zars

Appendix 6: U.S. Pat. No. 4,938,239 by Theurer

Appendix 7: U.S. Pat. No. 4,522,575 by Tischer

Appendix 8: U.S. Pat. No. 3,939,065 by Einersson

Please indicate receipt of the below identified papers:

☐ ___ page response to the Office Action dated _____☒ Other: fee transmittal (in duplicate),
response after board decision,
information disclosure statement,
form 1449 (in duplicate),
one article of reference,
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Identification of Application:

☐ New Application ☐ Continuation ☐ Divisional ☐ CIPTitle: CHEMICAL DISPENSING SYSTEM FOR SEMICONDUCTOR WAFER PROCESSINGInventor: Trung T. DoanMicron File No: 93-0421.04Application Serial No. 09/652,713

Attorney/Agent: Charles B. Brantley

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Attorney/Agent: Charles B. Brantley

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FEE TRANSMITTAL for FY 2003 <i>Effective 01/01/2003. Patent fees are subject to annual revision.</i>		Complete if Known	
		Application Number	09/652,713
		Filing Date	August 31, 2000
		First Named Inventor	Trung T. Doan
		Examiner Name	Sylvia MacArthur
		Art Unit	1763
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	93-0421.04
TOTAL AMOUNT OF PAYMENT (\$) 180			

METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)																																																																																																																																																																																			
<input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money <input type="checkbox"/> Other <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account: Deposit Account Number: 13-3092, Order No. 93-0421.04 Deposit Account Name: Micron Technology, Inc. The Director is authorized to: (check all that apply) <input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above identified deposit account.		3. ADDITIONAL FEES <table border="1"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr> <td>1051</td> <td>130</td> <td>2051</td> <td>65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>1052</td> <td>50</td> <td>2052</td> <td>25</td> <td>Surcharge - late provisional filing fee or cover sheet.</td> <td></td> </tr> <tr> <td>1053</td> <td>130</td> <td>1053</td> <td>130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>1812</td> <td>2,520</td> <td>1812</td> <td>2,520</td> <td>For filing a request for reexamination</td> <td></td> </tr> <tr> <td>1804</td> <td>920*</td> <td>1804</td> <td>920*</td> <td>Requesting publication of SIR prior to Examiner action</td> <td></td> </tr> <tr> <td>1805</td> <td>1,840*</td> <td>1805</td> <td>1,840*</td> <td>Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>1251</td> <td>110</td> <td>2251</td> <td>55</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>1252</td> <td>410</td> <td>2252</td> <td>205</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>1253</td> <td>930</td> <td>2253</td> <td>465</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>1254</td> <td>1,450</td> <td>2254</td> <td>725</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>1255</td> <td>1,970</td> <td>2255</td> <td>985</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>1401</td> <td>320</td> <td>2401</td> <td>160</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>1402</td> <td>320</td> <td>2402</td> <td>160</td> <td>Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>1403</td> <td>280</td> <td>2403</td> <td>140</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>1451</td> <td>1,510</td> <td>1451</td> <td>1,510</td> <td>Petition to institute a public use proceeding</td> <td></td> </tr> <tr> <td>1452</td> <td>110</td> <td>2452</td> <td>55</td> <td>Petition to revive - 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late filing fee or oath		1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.		1053	130	1053	130	Non-English specification		1812	2,520	1812	2,520	For filing a request for reexamination		1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action		1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action		1251	110	2251	55	Extension for reply within first month		1252	410	2252	205	Extension for reply within second month		1253	930	2253	465	Extension for reply within third month		1254	1,450	2254	725	Extension for reply within fourth month		1255	1,970	2255	985	Extension for reply within fifth month		1401	320	2401	160	Notice of Appeal		1402	320	2402	160	Filing a brief in support of an appeal		1403	280	2403	140	Request for oral hearing		1451	1,510	1451	1,510	Petition to institute a public use proceeding		1452	110	2452	55	Petition to revive - unavoidable		1453	1,300	2453	650	Petition to revive - unintentional		1501	1,300	2501	650	Utility issue fee (or reissue)		1502	470	2502	235	Design issue fee		1503	630	2503	315	Plant issue fee		1460	130	1460	130	Petitions to the Commissioner		1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)		1808	180	1808	180	Submission of Information Disclosure Stmt	180	8021	40	8021	40	Recording each patent assignment per property (times number of properties)		1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))		1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))		1801	750	2801	375	Request for Continued Examination (RCE)		1802	900	1802	900	Request for expedited examination of a design application	
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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Charles Brantley	Registration No. (Attorney/Agent)	38,086
Signature	<i>Charles Brantley</i>	Telephone	208-368-4557
		Date	9/26/03

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